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OFFICE OF PETITIONS

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In re Application of
Cockett et al.
Application No. 10/062,879
Patent No. 6960649 B2
Filed: January 31, 2002
Attorney Docket No. 038196-073100

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: DECISION GRANTING PETITION
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This decision is in response to Applicant's "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)" timely¹ filed on December 16, 2005 requesting that the Patent Term Adjustment be adjusted from one hundred and fifty-six (156)) days to the amount of two hundred and fifty-five (255) days.

Applicant's petition is **GRANTED**. The Office will *sua sponte* issue a certificate of correction reflecting an adjustment of 255 days rather than the 156 day amount printed on the front of the patent. The Office will also adjust the PTA calculation reflected in PAIR to reflect this decision.

Applicant argues that the Office erred in asserting an applicant delay of ninety-nine (99) days for the submission of the "miscellaneous incoming letter" on July 26, 2005 requesting that the Office issue the patent in the name of the assignee. Applicants assert that the submission of the assignee change is similar to a change of status that the Office noted in 1247 Official Gazette 111 (June 26, 200) was not a failure to engage in reasonable efforts to conclude prosecution of the application.

Applicant's arguments are persuasive. A review of the file reflects that the paper submitted was a request by applicants to issue the application in the name of assignee. Pursuant to 37 CFR 3.81, a patent will issue to in the name of the assignee consistent with the applicants' assignment where such request is submitted with the payment of the issue fee.² Under the circumstances of

¹Patent Issued on May 24, 2005.

²The Office notes in MPEP § 307 states that if an assignee's name and address are identified in item 3 of the Fee transmittal form PTOL-85B, the application will issue to assignee. Accordingly, the applicant need not submit an additional paper but should fill in the assignee

Application No. 10/062,789

this particular application, the Office will not find that the additional letter mailed with the issue fee payment requesting issuance of the application in the name of the assignee as a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(10).

After the mailing of this decision, the patented file will be forwarded to the certificate of corrections branch for a prompt issuance of the certificate of correction.

The Office acknowledges the receipt of \$200.00 for the application for patent term adjustment (petition). No additional fees are required by the Office.

Any questions concerning the issuance of this patent should be directed to Kery A. Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757



Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted Pair Calculation
Draft Certificate of Correction

information in box 3 of the PTOL-85B transmittal form.